



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



326223

REPLY TO THE ATTENTION OF:

MAY 07 2009

Daniel Swartzman, Esq.
DiVencenzo, Schoenfield & Swartzman
29th Floor
33 North LaSalle Street
Chicago, IL 60602

Re: Golub & Company LLC
630 N. McClurg
Lindsay Light II OU 15
Radioactive Thorium Investigation

Dear Mr. Swartzman:

Thank you and your client, Golub & Company LLC, for meeting with the United States Environmental Protection Agency on March 19, 2009, to discuss the radiological investigation of the former CBS Building property located at 630 N. McClurg in Chicago, Illinois. As we explained at our meeting, the Lindsay Light Company ("Lindsay Light") operated in downtown Chicago from approximately 1904 until 1936 when the company moved to the city of West Chicago and continued to operate for nearly four more decades. During its operation in downtown Chicago and in West Chicago, Lindsay Light produced a radioactive waste known as thorium mill tailings. Approximately 60,000 cubic yards of thorium mill tailings have been removed from downtown Chicago and more than 500,000 cubic yards of thorium mill tailings have been removed from West Chicago. U.S. EPA has been unable to obtain any historical information indicating where Lindsay Light disposed of thorium mill tailings in Chicago, there is a considerable discrepancy between the volumes of thorium mill tailings identified in Chicago and West Chicago, and Lindsay Light thorium contamination has been found during construction development at several scattered Streeterville and Lakeshore East properties. For those reasons, U.S. EPA requires anyone performing subsurface work in the neighborhood near the former Lindsay Light operations to conduct radiation surveillance and sampling in accordance with a U.S. EPA-approved work plan. The radiological surveillance protects construction workers and the public from uncontrolled exposure to the thorium contamination.


It is critical for your client to conduct all radiological surveillance work at this property in accordance with a U.S. EPA-approved work plan and with U.S. EPA's oversight. With a U.S. EPA-approved work plan and agency oversight, U.S. EPA can ensure that the radiological investigation is properly conducted and can assure construction and utility workers, as well as the public, that there is no uncontrolled release of or exposure to thorium contamination. Likewise, by performing the investigation pursuant to an approved work plan, your client may offer assurance to contractors, lenders or subsequent purchasers that site development work will not be delayed or require additional radiological investigation. Another Lindsay Light area property, the former Grand Pier site, did not undertake a U.S. EPA-approved radiological investigation and encountered significant construction delays after U.S. EPA discovered thorium contamination at the site. Grand Pier also was required to investigate and clean up portions of a landfill where it had disposed of contaminated soil from the site. U.S. EPA has worked closely with property owners and developers to avoid such delays and expense.

Your client's contractor, GaiaTech, provided a three-page Surface Radiation Survey and Focused Screening around Boring B-35 proposal dated April 8, 2009. As our enclosed comments on the proposal state, however, the proposal needs substantial revision to satisfy our work plan requirements. U.S. EPA anticipates that your client will revise and resubmit the document to incorporate U.S. EPA's comments into a work plan that EPA can approve. If thorium contamination is identified at the property, then the approved work plan would be attached to the agreement described in the following paragraph.

To provide for proper radiological surveillance, U.S. EPA is proposing that your client submit a work plan for the agency's approval, provide consent to access to the property, and if thorium contamination is identified at the property, immediately enter into an Administrative Settlement Agreement and Order by Consent ("ASAOC"), pursuant to Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §9606. In addition to the consent for access, I have enclosed a proposed ASAOC for your review and comment. The ASAOC would incorporate the U.S. EPA-approved work plan and provide for reimbursement to the United States for its costs of overseeing the removal actions performed under the ASAOC and for its costs already incurred at your property. The terms of the ASAOC must be agreed prior to any surveillance so that if thorium contamination is discovered at the property, the ASAOC can be executed immediately by both your client and the agency. While the enclosed ASAOC has not been approved by the official having the legal authority to bind the U.S. EPA, if your client should execute the document, the On-Scene Coordinator for this property and I will recommend that the Agency enter the ASAOC in its present form.

If your client would is not willing to provide access to the property for investigation and oversight, submit a revised approvable work plan or enter into the ASAOC upon discovery of thorium contamination at the property, we would appreciate being so advised without delay, so that the agency may undertake an alternative approach to deal with the potential radioactive contamination at the property. Please call me if you have any questions or wish to arrange a meeting to discuss your comments. Your cooperation is appreciated and we look forward to the investigation of this property.

Sincerely,


Mary L. Fulghum
Associate Regional Counsel
(312) 886-4683

Enclosures: Consent for Access
Draft Work Plan Comments
Proposed ASAOC

cc: Verneta Simon, OSC
Cathleen Martwick, ORC
Gene Jablonowski, Health Physicist

bcc: Debbie Keating, EESS (SE-5J)
John Maritote, EESS (SE-5J)
Records Center (SMR-7J)